IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 831 of 2005

Between:

Smt.P.Mani W/o.Sri P.V.Rao @ Rama Rao
R/o.45-40-13, Akkayyapalem Main Road, Division Nos.30,31,32,

and 33, Visakhapatnam.

... PETITIONER

AND

Visakhapatnam Municipal Corporation, represented by its

Special Officer-Cum-Commissioner, Visakhapatnam.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proposed action of the respondent in trying to demolish the premises bearing D.No.45-10-13, situated at Main Road, Akkayyapalem, Visakhapatnam, belonging to the petitioner as arbitrary, illegal, high handed and violative all cannons of law and justice apart from being in violation of the orders of this Honourable court passed from time to time and consequently direct the respondent not to intefere with peaceful physical possession and enjoyment of petitioner premises bearing No.45-40-13, Akkayyapalem, Visakhapatnam.

Counsel for the Petitioner: MR.T.S.ANAND

Counsel for the Respondent: MR.T.S.VENKATA RAMANA

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed seeking a Mandamus declaring the proposed action of the respondent in trying to demolish the premises bearing D.No.45-40-13, situated at Main Road, Akkayyapalem, Visakhapatnam, belong to the petitioner, as illegal and arbitrary and further direct the respondent not to interfere with the peaceful possession of the petitioner over the said premises.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondent and with their consent, the writ petition is being disposed of at the admission stage.

3. The main grievance of the petitioner, who claims to be the owner and peaceful possessor of the premises bearing D.No.
45-40-13, situated at Main Road, Akkayyapalem, Visakhapatnam, is that some portion of her premises is being proposed to be taken over by the Municipal Corporation for road widening. It is stated that the Municipal Corporation has also issued a notice dated
14-01-2005 informing the petitioner that the corporation has proposed to widen the Akkayyapalem main road and requested the petitioner to cooperate with the corporation and handover the site to be affected in the said road widening and that compensation would be paid to the affected structures as per G.O.Ms.No.33 MA, dated 03-02-2001. It is stated by the learned counsel for the petitioner that petitioner is not interested in surrendering her premises by accepting compensation to the portion affected.

4. In view of the fact that the petitioner is not interested in handing over a portion of her land for the purpose of road widening by receiving compensation, I deem it appropriate to dispose of the writ petition directing the respondent, Commissioner to follow the provisions under the Land Acqusition Act before taking possession of the portion of the petitioner's premises for the purpose of road widening.

The writ petition is accordingly disposed of at the admission stage.

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N.V. RAMANA, J

January 28, 2005

Note: Operative portion by wire at partys' costs.

(B/o)

MRR/NSR

COPY TO:

1. Special Officer-Cum-Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam.
2. Two C.D. Copies.